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Vice-Chairman

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GARY R. BAKER
EXECUTIVE DIRECTOR

State of South Carolina

State Ethics Commission

(803) 758-7408

Room 116, 1026 Sumter Street

P.O. BOX 11627

COLUMBIA, S. C. 29211

NEWSLETTER

OCTOBER 1980

No. 81-001

NEW MEMBER APPOINTED

Mr. Elrid M. Moody of Hilton Head Island has been appointed to serve out the remaining term of Vernon Strickland who resigned earlier this year. Moody, a Citadel graduate, will represent the First Congressional District on the Commission. Moody previously served as the Chairman of the Bank of Beaufort and Hilton Head Bank. He is presently associated with Carolina Investments on Hilton Head Island.

CAMPAIGN DISCLOSURE FILINGS

Candidates and committees are reminded that a Campaign Disclosure Form must be filed within thirty days after each election in which contributions are sought or received or funds expended. For candidates and committees involved in the November 4 general election, the Campaign Disclosure Form must be filed with the appropriate supervisory office on or before December 4. Copies of the Campaign Disclosure Form may be obtained from the Commission office or County Clerk of Court.

Candidates who continue to collect or expend funds after the election, whether successful or not, must continue to file the Campaign Disclosure Form. The reporting schedule for such candidates is within ten days after the end of each calendar quarter. Thus, candidates who are continuing to collect funds to pay campaign expenses must file prior to October 10, 1980, January 10, 1981 and continue to file prior to April 10, July 10, October 10, until such campaign expenditures are satisfied.

POTENTIAL VOTING OR ACTION CONFLICTS

The General Assembly passed legislation to amend the section of the law requiring disclosure of potential conflicts of interests. Section 8-13-460 of the State Ethics Act provides that a public official or employee who is required to take some action or

make some decision which will substantially affect directly his financial interests, those of a member of his household, or a business with which he is associated to: (1) prepare a written statement describing the potential conflict, and (2) in the case of a public employee, provide the statement to his superior who will assign the matter to another employee who does not have a conflict, or, if the matter involves a public official, provide the written statement to the presiding officer, who will cause the statement to be reflected in the minutes of the proceeding, and will excuse the official from any votes, deliberations, or other actions on the matter.

DISPOSITION OF COMPLAINTS-PUBLIC RECORD

Act No. 374 of 1980 provides that the disposition of all complaints by the State Ethics Commission, except those which are dismissed, are a matter of public record. The Commission has determined that complaint dispositions should be a matter of public record as a deterrent to further violations of public trust. The Commission is presently under a restraining order concerning information involving a complaint disposed of by the Commission in June 1979.

The same act provides that a hearing, after determination of probable cause, must be called after giving at least thirty days notice. This provision coincides with the Administrative Procedures Act and repeals an earlier Ethics Act provision requiring a hearing to be held within thirty days after the probable cause determination.

PROPOSED LEGISLATION

At its September 17 meeting, the Commission approved legislative proposals to amend the State Ethics Act. Copies of the proposals may be requested from the Commission office. The Commission solicits any comments or suggestions concerning possible legislation.

DIGEST OF ADVISORY OPINIONS

80-052

July 17, 1980

HOLDINGS OF AGRICULTURE COMMISSIONER

The Commission advised that the Commissioner of Agriculture must disassociate himself from Farmers Milling and Supply Co. which sells feeds which are registered by the Department of Agriculture if he is a director, officer, owner, employee, or holder of stock worth ten thousand dollars or more at fair market value.

80-063

July 17, 1980

CLEMSON UNIVERSITY TRUSTEE SERVING ON S. C. FOUNDATION SEED ASSOCIATION

A trustee of Clemson University who also serves on the Board of S.C. Foundation Seed Association was advised to follow the disclosure and disqualification procedures of §8-13-460 in all matters concerning seed certification since Clemson University has ultimate responsibility and accountability for the seed certification program.

81-001

July 17, 1980

INDUSTRIAL COMMISSIONER AS BUSINESS CONSULTANT

The Commission advised a newly-appointed Industrial Commissioner that he could serve as a consultant to the Coca-Cola Bottling Company, but would be required to take the disclosure and disqualification procedures of §8-13-460 on all matters which would directly affect the financial interests of Coca-Cola Bottling Company.

81-002

July 17, 1980

SPOUSE OF HIGHWAY PATROLMAN OPERATING DRIVER'S SCHOOL

There does not appear to be any prohibition against the spouse of a S.C. Highway Patrolman opening a driver training school. The Commission advised that the Highway Patrolman is encompassed by the State Ethics Act and directed his attention to §8-13-410 which prohibits the utilization of a public office for personal gain. The Commission also advised the patrolman to follow the disclosure and disqualification procedures of §8-13-460 in matters which would directly affect the driving school.

81-003

July 17, 1980

RECREATION COMMISSIONERS UTILIZING AGENCY FACILITIES AT NO COST OR REDUCED COST

Public materials and equipment should not be utilized for personal benefit when such are not generally available to the public. The Commission advised that, due to lack of any statutory provision enabling gratuitous or reduced charge for the use of commission facilities, no such gratuitous or reduced charges be provided to commission members or employees.

81-004

July 17, 1980

OFFICIAL CONDUCT OF ELECTED MUNICIPAL OFFICIALS

The Commission responded to questions concerning official actions of municipal elected officials: (1) A public official may bid on tax delinquent property provided no confidential information is utilized, and that his office is not utilized for financial gain. The Commission further advised that the practice of bidding on tax delinquent property by an official involved in the decisionmaking process has the appearance of impropriety. (2) Officials involved in voting on salary increases for spouses were advised to follow the disclosure and disqualification procedures of §8-13-460. (3) The question of whether a member of the county school board could run for a municipal elective office should be referred to the city attorney. (4) There are no prohibitions in the State Ethics Act against the spouse of the mayor or city councilman working for the same city, however, the disclosure and disqualification procedures of §8-13-460 must be followed on matters affecting the financial interests of the spouse or a member of the household. (5) The question of the amount of support to be provided to a city by a municipal official should be referred to the city attorney. (6) No provisions in the State Ethics Act govern who may run for and hold elective public office, however, a person who works for a corporation located in the city is advised of the disclosure and disqualification provisions of §8-13-460 in matters affecting the financial interests of that corporation. (7) The question concerning the proper procedure for the mayor and city councilmen to obtain a raise in pay should be referred to the city attorney. (8) Municipal employees may campaign for candidates provided that no public materials or equipment are utilized, that the employee does not

utilize his official authority in such campaigning, and that the campaigning activity is in agreement with the provisions of the Hatch Act. (9) An elected municipal official may purchase property from the town provided no confidential information is utilized, and that his office is not utilized for financial gain. However, such sales have the appearance, if not the effect, of impropriety. (10) A city may purchase items from a hardware store owned by a member of city council provided the public notice and competitive bidding process is utilized, when appropriate, and that the official has no influence over the purchasing decision. and (11) Candidates for elective office shall not have their names appear on the election ballot if they fail to file the Statement of Economic Interests within twenty days after becoming a candidate, except upon just cause shown to the Commission, however, if the candidate's name appears on the election ballot and he is elected, the Commission acting on a complaint, would investigate and determine what appropriate action to take.

81-005

July 17, 1980

DISCLOSURE OF CONFIDENTIAL INFORMATION

A member of a commission whose members discuss a matter in executive session concerning monetary limits for an agent to utilize in negotiating for the purchase of properties releases such information to a third party. Knowledge of such information may create an advantage to individuals involved in negotiations with the agent, thus creating the potential for financial gain, thus appearing to be prohibited by §8-13-440.

81-006

Sept. 10, 1980

CITY COUNCILMAN SERVING ON HOUSING AUTHORITY

A city councilman, if allowed by other statutes to serve on a city housing authority, was advised to follow the disclosure and disqualification procedures of §8-13-460 in matters involving the housing authority. The Commission further advised that further legal advice be sought concerning the applicability of constitutional provisions concerning dual-officeholding.

81-007

Sept. 10, 1980

PUBLIC EMPLOYEES GIFT POLICY

The Commission advised that a municipal policy concerning gifts to city employees appeared to be acceptable in prohibiting all gifts to municipal

employees, except: (1) during Christmas season, (2) no gift shall have a value of more than \$10.00, (3) alcoholic beverages are prohibited, (4) gifts are allowed only when given to all employees of a department, and (5) all gifts shall be approved in writing by the department head and city administrator. The Commission further advised that the following factors be considered: (1) the relationship of the gift to the public position held by the intended recipient(s), (2) whether the gift redounds to the benefit of the individual or the public entity, (3) whether the city has before it, has had before it, or contemplates any action affecting the donor, and (4) the benefits to be gained by the donor in making such a gift.

81-008

Sept. 10, 1980

APPLICABILITY OF REPORTING REQUIREMENTS - COUNTY ATTORNEY

The Commission advised that a county attorney, whose annual retainer fee is less than \$20,000 but who receives additional compensation for handling non-routine matters which would increase total compensation to greater than \$20,000, is not required to file a Statement of Economic Interests since the annual retainer fee is less than \$20,000.

81-009

Sept. 10, 1980

OFF-DUTY EMPLOYMENT OF POLICE OFFICER

The Greenville City Attorney was advised that a police officer may engage in off-duty employment consistent with guidelines established by the State Ethics Commission and modified by the General Assembly in Act No. 529 of 1978. The police officer must follow the disclosure and disqualification procedures of §8-13-460 in matters coming to his attention which would affect this off-duty employment.

81-010

Sept. 10, 1980

OFF-DUTY EMPLOYMENT OF PUBLIC EMPLOYEE

The personnel director at the Department of Corrections may engage in a business venture to provide potential job applicants assistance and training to become more employable. No solicitation of employment would be offered nor would this personnel service be provided to present Department employees. The Commission advised that the employee may engage in such business consistent with the off-duty employment guidelines.

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State Ethics Commission

P.O. BOX 11627
COLUMBIA, S. C. 29211

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81-010
Sept. 10, 1980

EMPLOYMENT OF PUBLIC EMPLOYEE

The Department of Public Safety advised that the Department of Public Safety is in a business venture to provide training to become more employable. No solicitation of employment would be offered nor would this personnel service be provided to present Department employees. The Commission advised that the employee may engage in such business consistent with the off-duty employment guidelines.

utilize his official authority in such campaigning, and that the campaigning activity is in agreement with the provisions of the Hatch Act. (9) An elected municipal official may purchase property from the town provided no confidential information is utilized, and that this office is not utilized for financial gain. However, such sales have the appearance, if not the effect, of impropriety. (10) A city may purchase items from a hardware store owned by a member of city council provided the public notice and competitive bidding process is utilized, when appropriate, and that the official has no influence over the purchasing decision, and (11) Candidates for elective office shall not have their names appear on the election ballot if they fail to file the Statement of Economic Interests within twenty days after becoming a candidate, except upon just cause shown to the Commission. However, if the candidate's name appears on the election ballot and he is elected, the Commission acting on a complaint, would investigate and determine what appropriate action to take.

81-005
July 17, 1980
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81-006
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CITY COUNCILMAN SERVING ON HOUSING AUTHORITY

A city councilman, if allowed by other statutes to serve on a city housing authority, was advised to follow the disclosure and disqualification procedures of §8-13-460 in matters involving the housing authority. The Commission further advised that the applicability of constitutional provisions of dual officeholding.

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81-007
Sept. 10, 1980

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